

LIVE WEBINAR

SMSF Estate Planning Masterclass



TriSuper Auditors

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Why are we here?

- Latest ATO SMSF Statistics - June 2020
 - 593K SMSFs (533K in 2015)
 - \$733B Total SMSF Assets (\$568B in 2015)
 - Average SMSF Assets per member: \$701K (\$568K in 2015)
 - 86% of members > 45 years of age

(You may want to look at other statistics on the link below)

<https://www.ato.gov.au/About-ATO/Research-and-statistics/In-detail/Super-statistics/SMSF/Self-managed-super-fund-quarterly-statistical-report---June-2020/>



Presenters



- **Joel Curry**, Director, TriSuper Auditors
- **Philip Hewitt**, Special Counsel, SWS Lawyers
- **Stuart Wolfe**, Head of Advice, Politis Investment Strategies



SMSF Estate Planning Case Study

Unpacking common problems

- Case Study Summary
- Questions to consider
- The Objectives
- Discussion questions
- Proposed Strategy
- What ifs...
- Effective SMSF Estate Planning
- Q&A

Case Summary

- Sole Member/Individual of a SMSF has recently passed away
- SMSF valued at \$1.1M including commercial property currently leased to adult child (John).
- No BDNs in place
- Potential Beneficiaries are 3 adult children, one of which (Ian) is sole executor of personal will.
- The only other asset owned by the deceased was her residence, valued at approximately \$400,000.
- Will outlines estate is to be evenly split 1/3 each with one brother's (Leon) to be held in Testamentary Trust.

Other details

- Children: Ian is a solicitor at a large firm in the CBD of a capital city. John is an engineer and leases the commercial property within their SMSF, and Leon is long term unemployed and somewhat estranged from the rest of the family.
- John currently has \$700,000 in his own SMSF, invested in cash and shares.
- Ian also has a SMSF, but he has \$1.2 million invested in cash and shares.
- There is little knowledge of Leon's financial situation.

Discussions

- Can Mum's super flow automatically to the estate without a BDN?
- Who can be a beneficiary of a super interest?
- Who has the power to decide? Does the Trust Deed play a role?
- Tricks and Traps with BDNs.
- What issues may arise for Ian & John in managing the proposed testamentary trust for Leon?
- Any apparent audit issues?

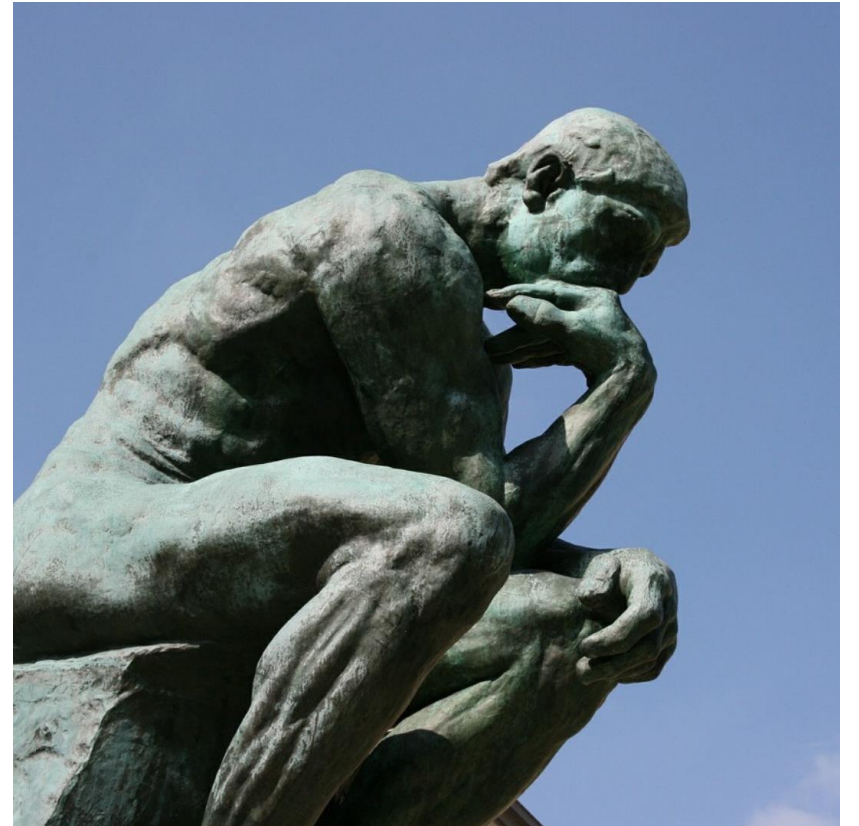


The Objectives

- John would like to take an ownership interest in the commercial property and would prefer to keep the property in the superannuation environment.
- John would make contributions to his own SMSF which would then purchase the property from Mum's SMSF. John would ultimately receive 1/3 back as an estate distribution.
- Ian believes the property has significant growth potential and has been trying to identify a commercial property to acquire in his SMSF for many years.
- Ian plans to take ownership of the property himself.

Discussions

- Can Mum's super flow automatically to the estate without a BDN?
- Can Ian determine how the property in the SMSF is dealt with? Who controls the SMSF and makes decisions with respect to its asset base?
- Is it possible that Ian can pay the entire balance to himself? Ultimately funded by his rollover...
- Can the property stay in the superannuation environment?
- Can Mum's super interest be just transferred on paper to a super interest in the same SMSF for the sons or does it need to be "cashed out"?
- Death taxes?

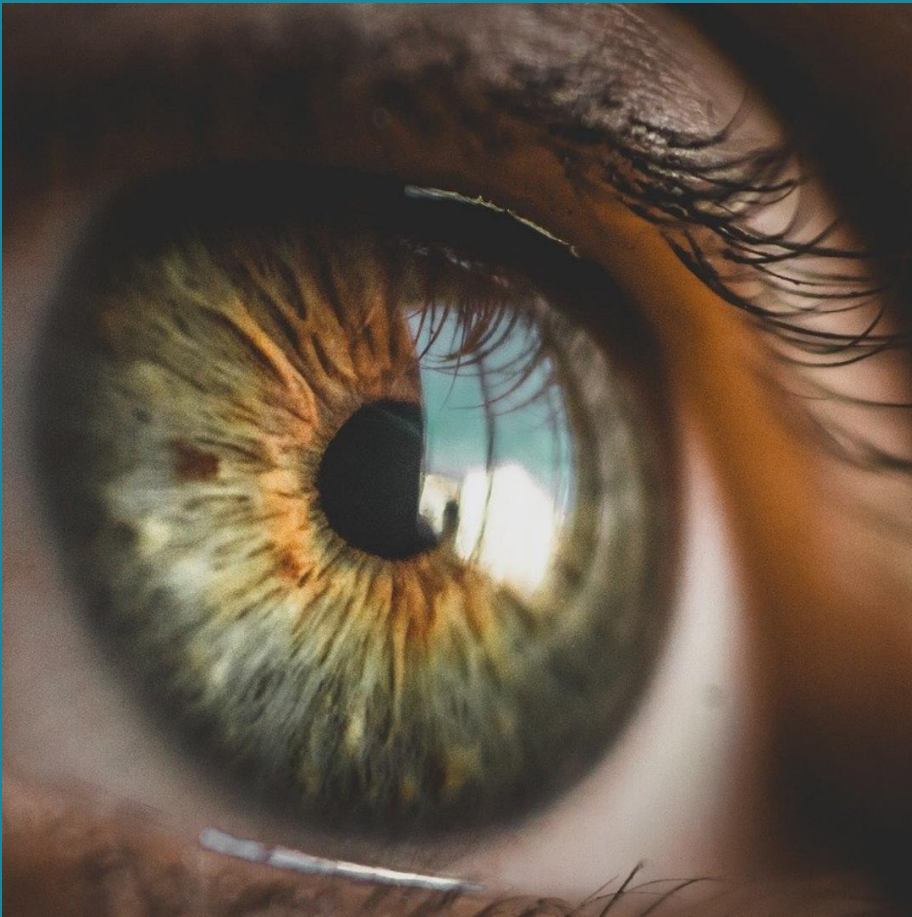


Proposed Strategy

- ❑ John would like to take an ownership interest in the commercial property and would prefer to keep the property in the superannuation environment.
- ❑ Ultimately the brothers agreed to an even 1/3 split of the estate.
- ❑ Mum's house was transferred into the testamentary trust (stamp duty free) and leased for Leon's benefit. Ultimately Leon may move into the house.
- ❑ John and Ian decided to share ownership of the property. This was achieved by both brothers rolling \$500K into Mum's SMSF (after setting up a corporate trustee and becoming members).
- ❑ With \$1.1M in cash, the SMSF paid out two \$550K death benefit payments to Ian and John. After tax of 17% they received a net \$456K. Ian and John gave a small amount of cash to Leon to square the difference.
- ❑ John continued to lease the property at market rates.

What if ?

- What problems can be encountered in the future?
 - One brother wants to sell the property...
 - One brother is divorced and a super splitting order is enforced...
 - One brother dies...



Effective SMSF Estate Planning is essential

- Does the Trust Deed allow for your plans?
 - Are BDNs current and legally enforceable?
 - How can you minimize death taxes?
 - Who will control the SMSF if the members die?
 - How can an enduring power of attorney help?
 - How can you plan for sticky assets to be handed down (ie property)?
 - What is the interplay between your SMSF interest and your personal will?
 - Up to date investment strategies and insurance strategies for each member.
- It's not important till it's important.....**

Q&A

“I’ll take that as a comment...”





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